IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 15TH OCTOBER 2007 / 23RD ASWINA 1929

Crl.MC.No. 3156 of 2007()

AGAINST THE ORDER IN CC.74/1996 IN
CC.84/1996 of JUDL. MAGISTRATE OF FIRST CLASS-II, HARIPAD

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PETITIONER: RESPONDENT/ACCUSED

R.MADHUSOODANAN NAIR, RESIDING AT
NEELETHU HOUE, NADAKKAVU MURI,PERINGALA VILLAGE
KAYAMKULAM (IN PRISON)

BY ADV. SRI.R.RAJASEKHARAN PILLAI
SMT.SABINA JAYAN

RESPONDENTS: PETITIONER/COMPLAINANT

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1. THE STATE OF KEALA REPRESENTED BY
PUBLIC PROSECUTOR HIGH COURT OF KERALA

2. TONY MATHEW, PUNCHAYAIL VEEDU.
PANDAMKERIMURI, EDATHUWA VILLAGE REPRESENTED BY
POWER OF ATTORNEY HOLDER D. SUDHEER,
ISWARYAYIL VEEDU,VALIYAKUZHI MURI,
CHEPPAD VILLAGE.

3. SONY K.SANKAR,D/O. SANKARAN,
RESIDING AT VYRISHERIL HOUSE,
THAMALLAKKAL VADAKKUM MURI, KUMARAPURAM VILLAGE
KARTHIKAPPALLY.

BY PUBLIC PROSECUTOR ADV.SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 12/10/2007, THE COURT ON 15/10/2007 PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.3156 of 2007

Dated this the 15th day of October 2007

O R D E R

The petitioner has been found guilty, convicted and sentenced in two separate prosecutions both under Section 138 of the Negotiable Instruments Act and initiated by different complainants. In one case, an appeal was preferred before the Sessions Court. That appeal has been dismissed. In the second case, an appeal has not at all been preferred.

2. According to the petitioner, the petitioner and the complainant have settled their disputes. The petitioner wants the verdict of guilty, conviction and sentence to be set aside. The petitioner, it is said, went before the learned Magistrate and asked for withdrawal of the case. The case having already been disposed of by the learned Magistrate, the learned Magistrate evidently rejected the said request. It is then that the petitioner has come to this court. The complainant has not come before me to confirm the composition. The petitioner, it is said, is undergoing detention in prison in execution of the sentences imposed. I must say the procedure adopted by the petitioner is

totally incorrect. In the case where no appeal has been preferred, the petitioner must prefer an appeal before the learned Sessions Judge along with application for condonation of delay, if any. If such composition is reported, I have no hesitation to opine that the learned appellate Judge must take a lenient view on the application for condonation of delay and proceed to pass appropriate orders regarding the application for composition. In the case where the appeal has already been disposed of, the petitioner has the option to file a petition for revision before this court along with application for condonation of delay, if any. In such revision also composition can be reported.

3. Having not taken any of the steps which are legally correct and acceptable, the petitioner has run to this court with this application under Section 482 Cr.P.C. Though with reluctance, I am constrained in these circumstances, to dismiss this Criminal Miscellaneous Case. The petitioner must seek appropriate relief from the appellate court and revisional court immediately.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007